The Cochin Municipal Bill.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I beg to move that the Cochin Municipal Bill may be taken up and finally passed and in doing so I beg to move under S. O. 42 (2) the following amendment:—

"Introduce the following as section 39 (to be renumbered along with the other sections of the Bill) after section 38 of the Bill, the second reading of which has already been passed, under S. O. No. 41;—

"39. (1) The Government may, by notification, remove any Councillor—

(a) if at the time of his election or appointment he was not qualified to be or was disqualified from being elected or appointed Councillor, or

(b) if he has been dealt with under the Cochin Insolvency Act or convicted of any such offence or subjected by a Criminal Court to any such order as implies in the opinion of the Government a defect of charactor which renders him unfit to hold his office,

(c) if he has been dismissed from the public service or has been debarred from practising as a lawyer or a medical man by order of competent authority,

(d) if he refuses to act or becomes incapable of acting, or

(e) if he without an excuse sufficient in the opinion of the Council neglects for more than three consecutive months to be present at the meetings of the Municipal Council.

(2) When the Government propose to take action under this section they shall give the Councillor concerned an opportunity of explanation and shall record the reasons for any action taken."

Now, Sir, Hon'ble Members will remember that section 39 of the Bill as reported upon by the Select Committee contained these provisions together with another provision viz., clause (f) which reads thus:—"If in the opinion of the Government, his conduct after entering office has been such as to endanger the public peace or order or to bring the Municipal administration into contempt." The Hon'ble Member for Trichur North had tabled an amendment with regard to that clause recommending its deletion. That amendment was discussed and eventually on being put to vote happened to be lost. Now what happened was that as soon as

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that was done the whole clause was put to vote. There was no attempt made for an explantion. Until the votes were actually taken nobody thought that the matter should be explained. Somehow or other this valuable section was lost. The Government think that it was the intention of the House not to include this clause (f): Government appreciate their opinion and have now deleted that clause. I request that this very valuable clause may be allowed to be introduced. I am sure Hon'ble Members will have no objection because that clause (f) has been deleted.

Mr. K. P. Kannan Nayar *(Secretary to Government).*— I second it.

Mr. C. R. Iyyunni *(Trichur South).*—I beg to move certain amendments to this section because it is not properly worded. In clause (b) it is stated "subjected by a criminal court to any such order as implies in the opinion of the Government." I think that clause may be changed as ". . . . . subjected by a criminal Court to any such order as implies in the opinion of the Government a moral turpitude . . . . . " If there is moral turpitude you can certainly understand that it is of a serious nature. In the same clause it is stated that 'if he has been dealt with under the Cochin Insolvency Act'. I think it should be made as in the Legislative Council Act i. e. "undischarged insolvent . . . . . " Then as regards clause (c) the words 'during the period that order is in force' should be added. That is omitted. Suppose he is barred for one month only and subsequently he wishes to stand for election. As the clause at present stands he would be debarred for all time. Then clause (d) says 'if he refuses to act . . . . . 'Nobody knows what it means. That clause must be completely deleted. So *clause (b) may be changed into 'if he is an undischarged insolvent or has been convicted . . . . . of the Government a defect of character . . . . . ".* Then with regard to clause (c) it may be changed into *'if he has been. . . . . .while he is debarred from practising . . . . . ".*

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—With regard to these amendments the Government have no objection. With regard to the insolvency matter also we have no objection. The Hon'ble Member wants only the undischarged insolvents to be penalised. The Government think that it is better that all insolvents should be barred. But if it is the desire of the House that only undischarged insolvents should be excluded I have no objection. But the question is it worth while to have insolvents in the Municipal Council. There may be moral turpitude of a negligible nature. Sub-clause (b) will be

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"if he is an undischarged insolvent or has been convicted of any such offence or subjected by a criminal court to any such order as implies in the opinion of the Government a defect of character which renders him unfit to hold his Office."

Then coming to clause (c) I hope the Hon'ble Member wants that the latter portion of the clause should be limited to the period for which he is barred.

Mr. C. R. Iyyunni *(Trichur South).*—Yes.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I think that clause can be changed as "if he has been dismissed from the public service or while he is debarred from practising as a lawyer or a medical man by order of competent authority.'

Mr. C. R. Iyyunni *(Trichur South).*—In clause 'd' what is meant by 'if he refuses to act?'

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Suppose he says he will not come to the Council then he refuses to act.

Mr. E. Ikkanda Warriar *(Urakam).*—Sir, I wish to move another amendment. Unfortunately I was not present when the discussion on the Municipal Bill was taken. It is this. There was an amendment tabled by Mr. Balarama Ayyar to the effect that the words 'On the recommendation of the Council' may be added between the words 'may' and 'by notification' in clause (1). The effect of the amendment will be to give the initiative to the Council. But the section as it stands gives the initiative practically to the Government. It is the Council that is primarily concerned with the matter and I would suggest that the Council should be given the initiative and the Government need act only in case Council wants it.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—The Government only acts in the case of certain well defined eventualities. There is no possibility of abusing those powers. To introduce an additional safeguard will be nullifying the provisions contained here. These are well defined conditions.

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—As a matter of fact the party concerned is the Council and the Government have made it clear that no action will be taken until an opportunity is given to the Councillor concerned to defend himself. I think there is sufficient safeguard there. Of course before any action is taken against a councillor he should be

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allowed an opportunity to defend himself. That is being provided for. I do not think that there is any necessity for the amendment.

Amendment as modified by Mr. Iyyunni was put and carried thus carrying section 39.

* **Dr. A. R. Menon** *(Pallippuram).*—Sir, I oppose this motion to bring out certain facts to the notice of the Government. To some extent the responsibility of introducing the executive officer rests with my friend Mr. Ikkanda Warriar. It was at my instigation that he brought in a resolution to the Council for the appointment of executive officers. At the very outset I may say that I have no selfish motive because at that time I was the Chairman of the Trichur Municipality and I deliberately recommended that the executive officers are necessary for the efficient administration of the Municipalities. Mr. Warriar also happened to be a Councillor at that time and although the Council was not consulted in this matter we thought it our duty to insist upon the appointment of such an officer. I make this preface so that the Government may understand that it is without any intention or without any desire to see that no executive officer is appointed in Municipalities that I am going to make a few remarks. Government opposed that resolution on the ground of want of finance. The Resolution was lost. Subsequently there was an interview with the Diwan Mr. Herbert, and the matter was placed before him and I particularly pointed out to him the deplorable results that followed in British Municipalities with the introduction of executive officers as now contemplated in the Bill here. Then he asked me to devise some means by which we may get over the difficulty in the appointment of executive officers without the deplorable results that are seen in the Municipalities of British India. I suggested that the Government may nominate three persons or the Council may be asked to nominate three persons for the post of executive officer in each Municipality and out of such candidates the Government may appoint one in whom they have got confidence. I fail to see what objection is there for the Government to adopt such a procedure. You may ask what is the object of such a procedure. The object is to protect the executive officer to enable him to do his work properly. Do this House believe that the executive officer appointed by the Government will command the confidence, the sympathy and support of the Municipal Council? The moment he enters

* Speech not corrected by the Hon'ble Member.

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his Office he becomes an agent of Government and not an officer of the Municipality and hence ignores his responsibilities as an officer of the Municipality. In order to obviate this difficulty the Municipal Council must some how or other be involved in the selection of this officer and the Municipal Council must be made responsible directly or indirectly in the selection. Then that sympathy, that help, that co-operation and that feeling that this officer was elected by us will stand in good stead to the executive officer. That was the reason. If you had introduced that clause in this Bill the Municipal administration in the State would have been made a model administration.

Now, Sir, bureaucracy unfortunately accepts the experience of other bureaucracies. Bureaucracy never listens to reason. It forgets nothing of the old and takes nothing of the new. Because one bureaucracy has done one thing, does it follow that this bureaucracy must follow the some thing? The result will be the same as we have noticed in the Madras Municipalities. The Chairman of the Municipality will become a non-entity. Let me, Sir, give one example. In Municipalities where the Chairman has ceased to have the confidence of the Councillors you will see that 8, 9 or 10 meetings were called without a quorum. Do you mean to say that it is because of the indifference of the Councillors. In the same Municipality you will have noticed from the inception of it that not a single meeting had to be postponed for want of a quorum. What moral do you learn from this. It certainly shows that it is not due to an indifferent attitude taken by the Councillors in the Municipal administration. Something of that sort will happen here also. At least in the other case we have got a consolation that the Chairman was elected by the Council rightly or wrongly, wisely or foolishly. And the Municipal administration will die of inanition and become a Government Department or the executive officer's life will become a hell. He will not be able to carry on any work. Is it not the duty of the Government to consider this aspect of the question before blindly following the footsteps of other people for reasons best known to themselves? Gentlemen, I heard in this House that conditions here are not similar to those in British India. The conditions are dissimilar when executive officers were appointed in British Indian Municipalities. There might have been other considerations for the appointment of these executive officers. My only explanation in your having the desire to have the Bill passed soon is to have more power to control the municipal administration.

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Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I refuse to think that this is the motive of the Government.

Dr. A. R. Menon (*Pallippuram*).—Had I known that I would not have made that observation. The Government want to have the control of the Municipality irrespective of the consequences that may follow. I think my duty is to impress upon the Government the necessity of modifying the method of selecting the executive officers more for the sake of your own executive officers. That position has become a little more difficult by the nomination. Now it has become practically impossible for the Council to remove the executive officer. An irremovable executive officer may do a lot of things and he will be tempted to do many things when he sees that we have lost our control. Though I object to this nomination I do not insist upon that so vehemently as I did about the first one, because after all there are some advantages also. I am ready to admit it. The presence of these Government officers has been a source of great help. We have been getting their services. Without paying anything for their expert advice it has done a lot to the development of Municipal administration, and also serve to study things in the course of debates. I am not prepared to say that nominations should not be made at all but the difficulty of an irremovable executive officer is much more than anything else. I may assure the Government that there is no selfish motive behind. I am only actuated by my desire that the civic administration of this country should flourish. I have more or less taken some slight activities in the civic development of the State and I am anxious that no measure passed in this House should stand in the way of that natural development of civic life. With these reasons I oppose this motion and having served that purpose, I, with the leave of the House, beg to withdraw the opposition.

Motion that the Bill be finally passed was put and carried.

The Cochin Nayar Bill

Mr. P. Govinda Menon (*Adur*).—I beg to move that the Cochin Nayar Act Amendment Bill may be taken up and finally passed.

Mr. T. K. Nayar (*Pazhayannur*).—I second it.

Mr. President.—Is it not a consolidated measure? It should be called the Cochin Nayar Bill and not the Cochin Nayar Act Amendment Bill.

Motion was put and carried.

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